

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-7827**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

BOBBY FORRESTER SPOONE, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Greenville. G. Ross Anderson, Jr., District Judge. (CR-98-178, CA-02-3039-6-13)

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Submitted: March 20, 2003

Decided: March 25, 2003

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Before WILLIAMS and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Bobby Forrester Spoone, Jr., Appellant Pro Se. David Calhoun Stephens, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Bobby Forrester Spoone, Jr., seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). When, as here, a district court dismisses a § 2255 motion solely on procedural grounds, a certificate of appealability will not issue unless the movant can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that Spoone has not made the requisite showing. See Miller-El v. Cockrell, \_\_\_ U.S. \_\_\_, 2003 WL 431659, \*10 (U.S. Feb. 25, 2003) (No. 01-7662). We deny a certificate of appealability and dismiss the appeal. We also deny Spoone's motion to consolidate the matter with another of Spoone's pending appeals, No. 02-7480. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED